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(A) (3)

IN THE HIGH COURT OF CHHATTISGARH, AT BILASPUR.

W.P. No.---136--- /2000.

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

Petitioner : Raqueeb Ahmed, S/o Shri S. Jafer, aged about 39 years, Bus Operator, Resident of Sadar Road, Ambikapur, Distt. Surguja(C.G.)

VERSUS.

Respondents :

1. State Transport Appellate Tribunal, Motimahal, Gwalior (M.P.)
2. Regional Transport Authority, Bilaspur.
3. Banshilal Sahu S/o Shri Sukhlal Sahu, Bus Operator, R/o Village Prem Nagar, Tahsil Surajpur, Distt. Surguja (Now Korea) Chhattisgarh.

Petition under Articles 226/227 of the Constitution of India.

HIGH COURT OF CHATTISGARH, BILASPUR

(S.B. HON'BLE SHRI R.S.GARG, J.)

(75)

WRIT PETITION NO.136/2000

Raqueeb Ahmad

Vs

The State Transport Appellate Tribunal
and two others.

- - -

Shri B.P. Gupta, learned counsel for petitioner.

Dr. N.K. Shukla, learned Dy.A.G. for respondents nos. 1 & 2.

Shri B.K. Rawat, learned counsel for respondent no.3.

O R D E R

Learned counsel for the petitioner submits that the respondent no.3 did not challenge the grant of the permit on the ground that portion of the route was falling within the scheme, but in fact the respondent no.3 challenged the issue of permit on the ground of the timings. Referring to certain portion of the order passed by the State Transport Appellate Tribunal, he submits that if the timings was the only question raised before the State Transport Appellate Tribunal, then the respondent- S.T.A.T., had no authority under the law to decide any other question which was not raised before the Authority.

2) Shri Rawat, learned counsel for respondent no.3 submits that the respondent no.3 did not challenge the grant on the ground that portion of the route was falling under the scheme, according to him, as the timings granted in favour of the petitioner were prejudicial to the timings granted in favour of respondent no.3, he had an authority to challenge the permit and the timings which have been allotted

in favour of the petitioner. He submits that the Authority was absolutely justified in granting his revision.

3) Shri Gupta, learned counsel for the petitioner submits that the respondent no.3 has also obtained permit for the same route and if the respondent no.3 can operate the permit on the very same route despite a bar as found by the S.T.A.T., then the said bar could not be used against the present petitioner. He submits that so far as timings are concerned, the S.T.A.T., while deciding the issue no.3, has held in favour of the petitioner.

4) I have heard the parties and have gone through the records.

5) It is not disputed before me that the route, for which permit has been granted in favour of the petitioner, the respondent no.3 had also obtained the permit. The fact that number of operators are operating on the very same route, was not disputed before me. If that is so, the S.T.A.T., was not justified in rejecting the permit simply on the ground that the route on which the permit was granted in favour of the petitioner, was under the control of the M.P.S.R.T.C. Till date, the M.P.S.R.T.C., has not raised any objection to the grant of such permits. The M.P.S.R.T.C., or the State Road Transport Corporation shall always be at liberty to make an application either before the concerned R.T.A., or before any other competent authority for recall/cancellation of the permits on the ground that the routes are covered under the scheme.

6) So far as the question of timings are concerned, undisputely the State Transport Appellate Tribunal has held in favour of the petitioner. It is a recorded finding that with an interval of half an hour the buses

are plying on the said route. If that be so, the respondent no.3 cannot be allowed to say that because of operation of the permit on this route he would suffer loss. In any case, in view of the liberalised policy as contained under Section 80 of the Motor Vehicles Act, 1989, the prime consideration is the public convenience, not the competition.

7) The order passed by the State Transport Appellate Tribunal, is set aside and that of R.T.A., is restored. There shall be no order as to costs.

Sd/-
R.S. Sharma
Judge

JUDGE
3/4/2001

rsnr